Adultery Law Archaic, Attorneys Agree

By Douglas Watson
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Criminal adultery laws are criticized by Washington, Maryland and Virgina attorneys as beng anachronistic and ignored statutes that should be scrapped.

Adultery costs $10 for those convicted of it under Maryland law, which helps explain why attorneys there say criminal adultery cases are about as rare as piracy cases.

"All the Virginia law does is take up space in the book," said A. Andrew Giangreco, an Alexandra lawyer, who labeled the $20 to $100 Virginia fine archaic.

"It's meaningless and should be made a strictly civil matter," said Dovey J. Roundtree, a Washington attorney, of Washington's adultery law.

Maximum penalty here for adultery is a year in jail and a $500 fine. But Domestic Relations Court Judge Joseph M. F. Ryan recently noted Washington has had no adultery prosecutions in more than 20 years.

Ryan has spoken unofficially against Washington's new, liberalized divorce laws and urged strict enforcement of criminal adultery laws to keep families together.

But leading divorce lawyers interviewed yesterday generally disagreed. Jackson Brodsky, a Montgomery attorney, said he feels adultery should legally be what it is overwhelmingly in practice, a matter for the divorce courts and not the criminal prosecutor.

Brodsky said he would like to see Maryland accept recommendations of Britain's Wolfenden Report, which calls for no legal interference with the private sex relations of consenting adults.

The 1957 report, which has caused great discussion in Britain, has yet to be accepted by Parliament.

Maryland's criminal adultery law dates from the 18th century. "You could say it's used sparingly," joked Howard Chasanow, deputy state's attorney in Prince George's County. "In the three years I've been here we haven't had a prosecution."

"You have to have evidence, and most adulterers don't brag or complain about their acts," said Arlington Commonwealth's Attorney William J. Hassan, who said he could not recall a criminal adultery case there in 14 years.

Adultery convictions are extremely difficult to obtain because there must be proof "without a reasonable doubt," Hassan said. Divorces granted on the grounds need only a "preponderance of the evidence.

Montgomery, Fairfax and Alexandria prosecutors agreed criminal adultery is almost impossible to prove and such cases are very infrequent.

"Adultery is handled better in the civil courts," said Dexter Odin, an assistant commonwealth's attorney in Alexandria.

The civil courts in Montgomery and Prince George's counties have granted about 1500 divorces this year, less than 200 of them officially on the grounds of adultery.

About 1200 marriages ended in Arlington, Fairfax and Alexandria in 1965, but in fewer than 50 was adultery acknowledged. Washington's approximate total of 1300 divorces this year included 50 granted on adultery grounds.